

WRITTEN WARNING FORM

Employee David Paul Davis
 Date of Hire 4/27/98
 Department Fire

Date 8/3/05
 SS# _____
 Division _____

This written warning was issued to the above named employee this date for the following violation(s) of the Merit System Rules and Regulations:

Group II Offense Line # 2 which states:

Threatening, intimidating, coercing, or interfering with fellow employees or supervisors at anytime, including abusive language.

DETAILS OF MERIT SYSTEM VIOLATION

Document detailed description of violation including date, time and nature of each occurrence:

On this date around 0915 hrs. myself and the three Assistant Chiefs (Johansen, Hanson and Jackson) were speaking to Chief Johansen's shift as we had done with the previous shifts concerning the possible new work schedule for the fire department when at one point Sergeant Davis rose up in his seat towards me, stuck out his chest and stated "well do it and don't punk me out".

Prior Verbal or Written Corrective Actions (give date, reason and action)

9-19-02 Written reprimand—Mistakes due to carelessness

8-2-04 Counseling letter on vehicle accident

10-25-04 Counseling letter Group 1 Line 13- violating a safety rule or safety practice

Current Corrective Action Taken:

24 hours suspension without pay

Employee's comments to written warning:

The correct statement was "if we are going to do it" in regards to the new schedule "then lets go ahead and do it. I'm tired of being punked out" At no time was this meant to be a threat or an intimidating gesture. In fact, it was meant to emphasize the readiness of going ahead & starting the new schedule, because I have been threatened with the new schedule for many months now, and wanted it to be known if we are going to do begin with it that I was ready.

Additional Comments:

During this meeting I as a Captain and Supervisor in this department felt that Sergeant Davis was trying to intimidate or make a challenging gesture towards me. His actions were disrespectful to say the least. When the meeting was terminated I wanted to make sure that the other Chiefs in the room saw the incident as I did. I feel that Sergeant Davis needs to be aware of his actions and how they were perceived.

This written warning is intended to give you an opportunity to correct your work performance and conduct in the future. Failure to do so will subject you to further corrective action as stated in the Merit System Rules and Regulations and could result in your dismissal from employment with the City of Phenix City.

8/3/05
Date

[Signature]
Supervisor's Signature

I acknowledge this written warning has been discussed with me and understand this notice will become part of my personnel file. I further acknowledge I have been informed of my right to appeal the disciplinary action taken against me to the Appeals Board or the Personnel Review Board. My request must be submitted in writing to the Personnel Director within three (3) working days for the Appeal Board and within ten (10) working days for the Personnel Review Board. Probationary employees are not entitled to a Personnel Review Board Hearing as stated in section 15.011 of the Merit System Rules and Regulation.

[Signature]
Employee Signature

08/03/2005
Date

Barbara Goodwin
Personnel Director

8-3-05
Date

Wallace B. Hunter
Department Head

8/3/05
Date

Routing: Personnel File Personnel Director Employee

**Phenix City Fire
Rescue**

Memo

To: Chief W. Hunter

From: Assistant Chief Hanson, Assistant Chief Johansen, and Assistant Chief Jackson

CC: Barbara Goodwin, Personnel Director

Date: August 3, 2005

Re: Meeting with A-Shift personnel

The three Assistant Chiefs and Captain Kennedy met with the personnel of A-shift to discuss the situation with work hours of department and swap time. As the discussion was progressing, Captain Kennedy was speaking on decisions being made when Sgt. David Davis bent forward in his chair bowing out his chest and stated "well do it and stop 'punking me out'. This may not be the statement verbatim, but is the text of his statement toward Captain Kennedy. This was done in front of the entire crew and Assistant Chiefs and felt that this type of behavior was inappropriate, especially toward an officer of this department.

Sgt. Davis made numerous attempts with all the Chief Officers to contradict every statement being made. No matter what statements were made it was never enough nor the answers that he was seeking. All the other members in attendance had an opportunity to express their thoughts, but never reacted in an intimidating matter. We felt Sgt. Davis's temperament throughout the meeting was confrontational.


Assistant Chief Johansen


Assistant Chief Hanson


Assistant Chief Jackson



Phenix City Fire/Rescue Services

1111 Broad Street

Phenix City, Alabama 36867

(334) 448-2817



Kristen Kennedy
Fire Marshal

Wallace B. Hunter
Fire Chief

Bobby Brooks
Captain/Training Officer

Memo

To: H.H. Roberts, City Manager; Barbara Goodwin, Personnel Director

From: Wallace B. Hunter, Fire Chief

Date: August 3, 2005

CC: file

Re: Sgt. David Davis Written Warning

On the afternoon of Monday, August 1, 2005; I met with the Management Team consisting of all three Asst. Chiefs and Capt. Kennedy to discuss the state of our department. Some of the topics discussed were loyalty gratitude, disruption, staying out of City politics, working as a team under a para military organization, etc. I felt that I had one main complaint from the three shifts and that was that information was given to them in three different ways at three different times. To alleviate this, I asked all the Management team and Staff Captain Kennedy to meet with all three shifts to find out why there seems to be ongoing disruptions from our department with Fire Chiefs and city government over the past several years. Our Fire Department is constantly in the news and it has damaged our reputation. I felt that this management team ranging from 16-21 years of service should be able to relate to the personnel in which they are managing.

At approximately 1030 am on the morning of August 3, 2005; I called Fire Station #1 to talk to the Assistant Chief Johansen. I started this conversation by saying "Good Morning" and Chief Johansen stated that he was getting ready to call me because there was a problem at his staff meeting that morning. The management was meeting with A-Shift as it had previously met with B and C shifts on Monday and Tuesday of that week. Asst. Chief Johansen informed me of Sgt. Davis' behavior towards Capt. Kennedy and I went to Station #1. Upon my arrival, I found all three Chiefs and Capt. Kennedy in the Asst. Chiefs office and they explained the situation as it had occurred to me. The three Asst. Chiefs were preparing their statements and Capt. Kennedy was preparing her written warning. They were all in agreement as to what had happened in the meeting so I told Asst. Chief Johansen and Capt. Kennedy to meet me at the Personnel Director's

Office. Asst. Chief Johansen stopped by Station #3 to pick up Sgt. Davis to bring him to the Personnel Director's Office so that the written warning and suspension could be explained to him. We tried to talk to him about this problem and he explained that he's just an abrasive person and that he has this same problem at home. Chief Johansen and Capt. Kennedy spoke to Sgt. Davis about his lack of respect for the Management Team.

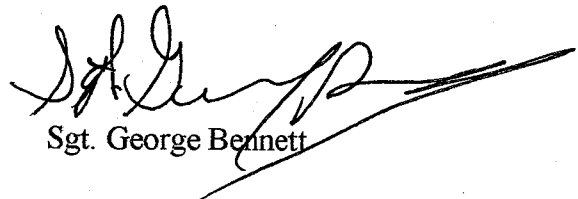
He told us that he hoped that this would be the end of this situation once he left this meeting and we all agreed to do better from this point forward. He basically lied to us because he did not end the situation at that meeting but later returned to file an appeal.

It is my opinion that Sgt. Davis has a problem with any person in an authoritative position. We have tried to counsel him on his behavior in the past as he has made comments about not caring whether Chief Hanson and Capt. Hutchinson were killed while riding together and referring to Chief Hunter as "Osama Bin Hunter."

To whom it may concern:

On August 3, 2005 a shift meeting was held at station #1. The events which will be recalled in this statement are as close to accurate as I George Bennett remember.

A meeting was held and in attendance were Chiefs Johansen, Jackson and Hanson along with Captain Kennedy and "A" shift personnel. This meeting was being conducted to discuss the changes which need to and will take place in the department. During this meeting a confrontation Captain Kennedy and Sgt. David Davis Both parties during this discussion seemed to become agitated at each other. During this discussion Captain Kennedy made statements about the department going to a different work schedule, during the discussion Sgt. Davis stated that they could go ahead and change the schedule today and that he was not going to leave the department. Sgt. Davis at some point said that he would not be "punked out" and he made a slight lunging motion of approximately 6-12 inches from where he was sitting, he never left his seat but used a sort of jerking motion in the direction of Captain Kennedy while talking to her. Captain Kennedy continued to address Sgt. Davis's questions during the meeting. Chief Hanson stepped in and to the crew that we had run over 300 calls for the month and was saying how great of an accomplishment this was for the department. Sgt. Davis interrupted and asked if this was the kind of meeting which was necessary to obtain this type of praise, Chief Johansen then stepped in and to Sgt. Davis that his sarcasm was not needed and that he needed to stop!



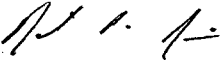
Sgt. George Bennett

Mrs. Barbara Goodwin,

August 04, 2005

I, Sergeant David P. Davis, of Phenix City Fire Rescue, in accordance with the Phenix City Merit System: Section 15, am requesting an employee appeal for disciplinary actions taken against me on August 03, 2005. I would also respectfully request that upon receipt of this appeal request, that all facts of this incident and disciplinary action notice be sent in writing to me. In addition, I also request that documentation be given to me in writing, as to what the financial cost of this disciplinary action is, as it incurs towards me. I humbly ask, at this time, that I be given ample time to prepare my defense in this appeal, after I receive the requested documentation above.

Respectively,


David P. Davis, Sergeant
185 Lee Road 236
Phenix City, Alabama 36870
(334) 291-1927



Phenix City Fire /Rescue Services

1111 Broad Street
Phenix City, Alabama 36867
(334) 448-2817



Wallace B. Hunter
Chief

Kristin H. Kennedy
Fire Marshal

August 5, 2005

Wallace B. Hunter
Phenix City Fire Chief
1111 Broad Street
Phenix City, Alabama 36867

Dear Chief Hunter:

This letter is to recall the discussion and events of August 3, 2005 involving myself, the Assistant Chiefs (Hanson, Jackson, Johansen), and Sergeant David Davis as well as further discussions in the office of the Personnel Director, Barbara Goodwin.

Around 0830 hours the meeting in which we were asked by the Fire Chief to relay information to the crew was taking place. We had previously spoken with the other two shifts concerning the new work schedule. As I was speaking to Sergeant Davis, he rose up in his chair towards me, stuck out his chest in a quick motion and made the comment, "well do it and don't punk me out or stop punking me out." At the time I was shocked and surprised that he had done this and did not know what he meant by the comment. I felt that it was not appropriate behavior. I also felt that he was trying to be threatening, challenging, and intimidating with his body language due to the intensity of the subject.

After the meeting was adjourned, I immediately went to the Assistant Chiefs and asked each of them if they saw and heard the same thing as I did? Their response was definitely that they saw and heard the same thing and they too felt that it was inappropriate and insubordinate. I also felt that Sergeant Davis was insubordinate but more than that I feel by his actions and tone that he was trying to be threatening and he needed to be made aware of his actions. I then looked through the Merit System and completed a Written Warning form. It was turned into Chief Hunter and taken to Personnel.

Around 1330 to 1400 hours, I, Fire Chief Hunter, Chief Johansen, and Barbara Goodwin met

with Sergeant Davis to discuss the Written Warning. Chief Hunter began the meeting by advising Sergeant Davis as to the reason he was present and the Written Warning. Shortly thereafter I was able to address Sergeant Davis and explain my reasons for the Written Warning. I explained to him in a clam manner that "he did not have to like me or respect me but he would respect my rank and position as an officer in this department." I further advised him that when he made that gesture and comment that I felt it was disrespectful, threatening, and intimidating due to the subject matter of the meeting and that he was disagreeing with the subject. I also told him that "in this formal setting I could not allow him to be disrespectful to me in front of his peers." He stated that "he has respect for me and that he did not mean it in that way." I asked him to look at it from our perspective because there was no reason for that type of behavior. He did not deny what he had done but wanted to restate the comment in his own words.

Chief Johansen addressed Sergeant Davis next and advised him that if he had made the gesture and comment to him directly that he would have been taken out of the meeting at that point. He also told him that he perceived his actions the same as Captain Kennedy. Sergeant Davis acknowledged that he has a problem with anger at home as well as at work and that gets him into trouble. At one point Chief Johansen asked Sergeant Davis a question and Sergeant Davis turned away from him and began speaking to Mrs. Goodwin about another subject. Chief Johansen pointed out to Sergeant Davis that type of behavior was part of what gets him into trouble and that he was showing it again.

I asked Sergeant Davis near the end of the meeting if he could please allow Chief Hunter to run the department. Chief Hunter is a new, young, and vibrant Chief and can communicate with the city leaders and that it is only fair to give him this respect and right to do his job. I advised him that if he has concerns he feels needs to be addressed then he could send them up the Chain of Command and they would be addressed. I also told Sergeant Davis that he was an influential person in this department especially with the younger persons and he could use that influence in a positive manner to help the department.

Sergeant Davis asked Mrs. Goodwin if this could be reduced to a lesser charge and she told him no, that it was already lesser because he could have been dismissed due to insubordination. I stated at that time that "I did not want him to loose his job but to be made aware of how I perceived his actions." I also stressed to him again that he was insubordinate but more than that his actions seemed to be threatening and intimidating. He stated that "he did not want something crazy like this in his record." He was also concerned that this would not be over when we left the room. I stated to him "that as far as I was concerned it was over." Mrs. Goodwin also told him that we would not discuss this situation and if it was discussed it was because he told his co-workers. I put out my hand as a gesture of good will to shake Sergeant Davis' hand and we did shake hands. I felt that this matter was over but that was not the case.

During the meeting with the other shifts no one acted in the same manner as Sergeant Davis. All employees were given the same opportunity to voice their opinion and ask questions but no one else jumped at a supervisor for an answer that they did not like. Sergeant Davis admitted that he has a problem with anger and his actions proved that he may have a problem with authority as

well, especially if the message is not coming from him or he does not agree with it. In our organization there is a Chain of Command and a need for supervisors and no supervisor should be treated with disrespect much less be intimidated for trying to relay information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristin H. Kennedy', with a large, stylized loop at the end.

Kristin H. Kennedy
Fire Marshal



Memo

To: Chief Hunter
From: Sergeant Johnson *SJT*
Date: August 6, 2005
Re: Letter concerning meeting on August 3, 2005

On the morning of August 3, 2005 all stations were called to station one for a mandatory meeting. During our meeting we were discussing fire department issues. During this discussion Captain Kennedy and Sergeant D. Davis had a difference of opinion. Captain Kennedy was standing approximately six feet from Sergeant D. Davis directly in front of him. Sergeant D. Davis was sitting in a chair. Captain Kennedy stated that "if the bickering, letters to the news paper, stabbing people in the back and things like that did not stop we were probably going to see a schedule change like eight hour shifts." Sergeant D. Davis stated back at her, "I'm tired of being punked out so quit threatening us with the eight hour shifts and go ahead and do it, where do I sign up for it?" The conflict ended and the meeting continued until an emergency call came in.

Memorandum

To: Chief Hunter

From: Assistant Chief K. Johansen

Date: 8/6/2005

Re: Sgt. D. Davis

During the meeting at the Personnel Directors office, Sgt. Davis admitted to having a problem both at work and at home with his abrasiveness toward people. He stated that it gets him in trouble, he guesses at both places. He was asked what could be done to try and help him. He said that we did not know; that is just how he is. He stated that he did not mean anything by his actions. He was told that the attitude and mannerism that he displayed was unacceptable, especially towards an officer of this department. He stated that he was sorry to Captain Kennedy if it was perceived in the wrong way. He stated that it was hopefully over and that it would be put in the past. This statement is to best of my knowledge at this time. KJ

PHENIX CITY FIRE RESCUE

To: Fire Chief Wallace Hunter

From: A/C James Jackson

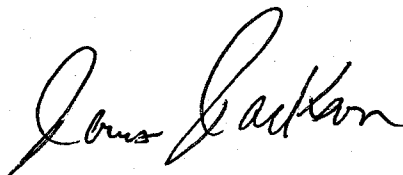
Date : August 8, 2005

Re: Sgt. D. Davis verbal statements during meeting

This statement is in reference to the incident that happened during a shift meeting at station one on August 3, 2005 around 0915 hours. The three assistant chiefs with Captain Kennedy were discussing the possibility of working twelve hours shifts, during which time Capt. Kennedy was addressing Sgt. David Davis question concerning work schedules. At that time Sgt. Davis stated that "I will work 24, 12 or 8 hours, it doesn't matter to me". "I just wish that they would do it and stop trying to punk me out". The statements were made while Sgt. Davis was sitting in a chair and while making the statements made a lunging type or intimidation type physical motion towards Capt. Kennedy. After those statements were made, Capt. Kennedy continued on with the meeting and the meeting ended shortly thereafter due to a call at Canterbury Nursing facility.

These statements to the best of my knowledge are accurate on the statement and details of the incident that occurred on the morning of August 08, 2005, during the shift meeting at station one.

Sincerely,

A handwritten signature in black ink, appearing to read "James Jackson", written in a cursive style.

James Jackson
Assistant Chief

8-16-05

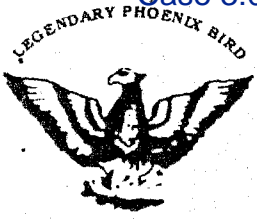
We the Personnel review up hold the
suspension of David Davis of 24 hrs
as requested by personnel of city
of Phoenix City Fire fighters Unit
100% votes yes

Thank you

Bobby Kilcrease

Chairperson

Personnel Review Board



City of PHENIX CITY Alabama

601-12th STREET
PHENIX CITY, ALABAMA 36867

JEFF HARDIN
MAYOR

RAY BUSH
COUNCIL MEMBER AT LARGE

JOHN STOREY
COUNCIL MEMBER DISTRICT 1

GAIL BRANTLEY
COUNCIL MEMBER DISTRICT 2

ARTHUR SUMBRY
COUNCIL MEMBER DISTRICT 3

H. H. (Bubba) ROBERTS
CITY MANAGER

BARBARA GOODWIN
PERSONNEL DIRECTOR

MARTHA HARRIS
CITY CLERK

August 17, 2005

David P. Davis
185 Lee Road 236
Phenix City, AL 36870

RE: Personnel Review Board Hearing

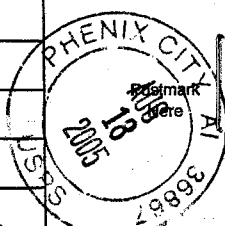
Dear Mr. Davis,

Please be advised that it is my determination along with the recommendation of the Personnel Review Board that your 24 hour suspension for violation of the Merit System Rules and Regulations-Section 14.05, Group II Line 2 stands.

Sincerely,

H. H. (Bubba) Roberts

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY		Postal Service™ CERTIFIED MAIL™ RECEIPT Elastic Mail Only; No Insurance Coverage Provided	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery 08-19-05</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below: _____</p>		<p>Delivery information visit our website at www.usps.com</p> <p>OFFICIAL USE</p>	
<p>Article Addressed to:</p> <p><i>David Davis</i> <i>185 Lee Road 236</i> <i>Phenix City, AL 36870</i></p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. </p>		<p>Postage \$ 37</p> <p>Certified Fee 2.30</p> <p>irm Receipt Fee (ment Required) 1.75</p> <p>ed Delivery Fee (ment Required) _____</p> <p>Postage & Fees \$ 4.42</p>	
<p>Article Number (Transfer from service label)</p> <p>7003 1010 0002 3006 4780</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>		<p><i>David Davis</i> <i>185 LEE ROAD</i> <i>Phenix City AL 36870</i></p>	



August 17, 2005

The Personnel Review Board met at 6:00 PM on this date to hear the appeal of David Davis who was suspended for 24 hours without pay for violation of Merit System Rules and Regulations-Section 14.05, Group Two, Line 2, which states "Threatening, intimidating, coercing, or interfering with fellow employees or supervisors at anytime, including abusive language".

Board members present were: Bobby Kilcrease, Chairman, James Reed, Ford Duncan, James Welburn, Mary Terry, Gloria Woods and Danny Redmon. Also present were Bubba Roberts, City Manager, James McKoon, City Attorney in absence of James P. Graham, Wallace Hunter, Fire Chief, Kristin Kennedy, Fire Marshall and Barbara Goodwin, Personnel Director.

Chairman Bobby Kilcrease called the meeting to order.

All potential witnesses were sworn in by City Manager Bubba Roberts. Witnesses were dismissed to the lobby to wait. Mr. Davis, Chief Hunter and Ms. Kennedy remained in the conference room to present the case to the Board.

City Manager, Bubba Roberts stated to the Board the charges against Mr. Davis. City Attorney, James McKoon presented the case to the Board. Kristin Kennedy testified to the Board concerning the events which led up to the suspension. Ms. Kennedy was questioned by the Board. Assistant Chief Kenneth Johansen testified to the events. Assistant Chief Johansen was questioned by the Board.

After testimonies from the City personnel Mr. Davis testified to the events which led up to his suspension. Mr. Davis then called the following witnesses to testify on his behalf as to the events: Scotty Johnson, Jeff Bowden, Rick Hamby and Lance Wagner. A written statement of Firefighter Dubberly was read to the Board by Mr. Davis.

After all testimony was given Fire Chief Hunter made a statement to the Board.

The Board privately convened to discuss the appeal. After discussion Chairman Bobby Kilcrease presented the Personnel Director with the following statement: "To Whom It May Concern: We the Personnel Review uphold the suspension of David Davis of 24 hours as requested by personnel of City of Phenix City Fire Fighters Unit. 100% vote yes. Thank you, Bobby Kilcrease, Chairperson, Personnel Review Board".

Meeting was adjourned at approximately 9:30 PM.

Tape recording of the appeal hearing is made a part of these minutes.

Chairman

Secretary